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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/031,065 02/26/98 BOWLING

J 10-1238

QM12/0902

EXAMINER

NIXON & VANDERHYE  
1100 NORTH GLEBE RD  
8TH FLOOR  
ARLINGTON VA 22201

ROSENBAUM, M

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 09/02/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>09/031,065</b>	Applicant(s) <b>Bowling et al</b>
	Examiner <b>MARK ROSENBAUM</b>	Group Art Unit <b>3725</b>

Responsive to communication(s) filed on Aug 12, 1999.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-22 is/are pending in the application.

Of the above, claim(s) 12-16 is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-5, 8-11, and 17-20 is/are rejected.

Claim(s) 6, 7, 21, and 22 is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on Aug 12, 1999 is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claims 6,7,21,22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Election/Restriction***

2. Applicant's election with traverse of Group I in Paper No. 6 is acknowledged. The traversal is on the ground(s) that all of the claims have common subject matter in treating comminuted fibrous material and therefore are not restrictable from each other. This is not found persuasive because the method of claim 12 has to do with refurbishing the star feeder and not treating the material. However, since claim 17 now includes material treatment, the claims of Group III have been treated on their merits.

The requirement for Group II is still deemed proper and is therefore made FINAL.

3. This application contains claims 12-17 drawn to an invention nonelected with traverse in Paper No. 6. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

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***Claim Rejections - 35 USC § 103***

4. Claims 1,2,9-11,17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Digesters in view of Granite. See paper number 5, paragraph 10 for this rejection.
5. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Digesters in view of Granite as applied to claim 1 above, and further in view of Chafee. See paper number 5, paragraph 11 for this rejection.
6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Digesters in view of Granite as applied to claim 1 above, and further in view of Buboltz. See paper number 5, paragraph 12 for this rejection.

***Response to Arguments***

7. Applicant's arguments filed 8/12/99 concerning the above rejected claims have been fully considered but they are not persuasive. The main argument against the secondary references is non-analogous art. This is not persuasive because each of the secondary references, as well as the main reference, have cutters/shredders similar to applicants' such that the teachings of one are analogous to the other. Also, the adjustability feature of claims 10-11 is not patentable since it is merely the adjustment of old parts i.e. adjustability can only be patentable if it is done in a new and improved way. The dependent claims that were not separately argued stand or fall with the parent claims.

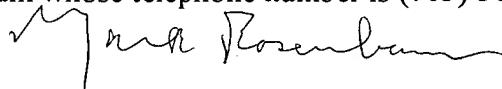
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*Conclusion*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Rosenbaum whose telephone number is (703) 308-1788.



MARK ROSENBAUM  
PRIMARY EXAMINER  
ART UNIT 3725

MR  
September 1, 1999